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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

8 United States of America,
9 Plaintiff,
10 v.
11 Abdul Malik Abdul Kareem,
12 Defendant.

2:15-cr-00707-SRB

**Second Unopposed Motion to
Extend Stay of Briefing on
Supplemental Motion for New
Trial (Doc. 505)**

13 Defendant Abdul Malik Abdul Kareem moves the Court to extend by 90 days to
14 February 25, 2019, the stipulated stay of briefing on Defendant's supplemental motion
15 for a new trial based on newly discovered evidence (Doc. 505). The stay was entered by
16 this Court on August 3, 2018 (Doc. 516) and stayed briefing to October 1, 2018. It then
17 extended the stay from October 1, 2018, to November 30, 2019. (Doc. 518.) This
18 extension is requested based on the efforts the parties have been making to prepare this
19 matter for full briefing, as detailed below.

20 This motion and the relief requested have been discussed with Asst. U.S. Attorney
21 Joseph E. Koehler. The government has no objection to the requested extension of the
22 stay.

23 Excludable delay under 18 U.S.C. § 3161(h) will not occur as a result of this notice
24 or an order based thereon.

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2 Respectfully Submitted this 27st day of November 2018.

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4 MAYNARD CRONIN ERICKSON
5 CURAN & REITER, P.L.C.

DRAKE LAW, PLC

6 s/Daniel D. Maynard
7 DANIEL D. MAYNARD

s/Daniel R. Drake
DANIEL R. DRAKE

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STATUS REPORT AND BASIS FOR EXTENSION

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12 The defense filed its supplemental motion for new trial (Doc. 505) on June 11,
13 2018, based on newly discovered evidence. On July 26, 2018, the government disclosed
14 information shared by government prosecutors during the prosecution of Erick Jamal
15 Hendricks in the Northern District of Ohio. As anticipated at the time, some of this
16 information might prove useful in briefing and presenting the new trial motion, including
17 a defense addendum. And, as anticipated and reflected in the party's stipulation (Doc.
18 514), the defense did wish to seek further disclosures based on the July disclosures.

19

20 The disclosures in late July consisted of heavily redacted email communications
21 among the FBI undercover agent referred to as "Stephen Jane" and other FBI employees,
22 including some intelligence analysts, and a heavily redacted FBI internal document
23 entitled "Garland Shooting Incident Review."

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25 On September 6, 2018, following its review of the late July disclosures, the
26 defense requested further disclosures in a six-page letter specifically identifying
27 information requested and the reasoning supporting each request. The parties spoke
28 briefly following the request and, on September 10, 2018, the government sent a written
response stating it intended to respond to the request in a substantive and complete

1 fashion and provide additional information where appropriate. It anticipated it might take
2 a few weeks to complete its response.

3 Nothing has come from the government to date in the form of objections to the
4 September 6, 2018, request or production of requested information. In a phone
5 conversation on November 27, 2018, AUSA Koehler indicated he had been meeting with
6 the FBI to resolve disclosure issue and has additional meetings planned.

7 The defense wants access to the requested information as it believes it would
8 strengthen its arguments for new trial or lead to the discovery of material information.
9 That was the reason for the initial stay of briefing, and it remains a viable reason today.
10 Delay does not benefit the defendant; he believes he is innocent and should not be in jail.
11 Nevertheless, the potential benefit of the requested information is a mighty reason to
12 pursue it.

13 Because of the delays encountered and the prospects of further discussion or
14 disputes about what could or should be produced, a term of 90 days is requested. Should
15 the disclosure issue resolve itself within the time allotted, the defense would supplement
16 its motion with additional information or request a response to the motion by the
17 prosecution. Unfortunately, the defense does not control the timing or substance of
18 disclosure.

19 CONCLUSION

20 The foregoing demonstrates the diligence of the parties and justifies the extension
21 of the stay of briefing for an additional 90 days until February 25, 2019.

23 Respectfully Submitted this 27th day of November 2018.

24 DRAKE LAW, PLC

25 *s/Daniel R. Drake*
26 DANIEL R. DRAKE

Certificate of Service

I hereby certify that on November 27, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to CM/ECF registrants:

AUSA Joseph E. Koehler
AUSA Kristen Brook

s/Daniel R. Drake